



324801

H.B. 200
Note + File

ENVIRONMENTAL PROTECTION AGENCY v. CHICAGO RIDGE LAND FILL
COMPANY; WASTE MANAGEMENT OF ILLINOIS, INC.; AND INCINERATOR, INC.

FILE #: 2402

BY: DON S. MEANS AND JOHN H. REIN

I. DESCRIPTION OF FACILITY

The CHICAGO RIDGE LAND FILL COMPANY owns a refuse disposal site located on Harlem Avenue in the Village of Palos Hills, Cook County, Illinois. Operation of the site was commenced in 1955 (see page 9, Appendix B). Operation of the site was conducted by DeBoer Brothers, Inc. (see page 1). General operations at the site were ceased in February, 1973 (see memo, page 1. Note: page references are to Appendix A unless otherwise specified). The site includes approximately 42 acres and is bordered by Harlem Avenue on the east, 105th Street on the north, and Stony Creek (Calumet feeder ditch) on the south (see Zoning Map, page 24, Appendix B).

The Chicago Ridge Land Fill Company is an Illinois corporation whose registered agent is:

James G. DeBoer
[REDACTED]

The president is:

George DeBoer
[REDACTED]

(Reference: Certified List of Domestic and Foreign Corporations, 1974). (See also Certificate of Incorporation, pages 92-97, Certificate of Change of Registered Agent, pages 98-99, and Annual Report for 1974, pages 100-101). A letter addressed to Mr. James G. DeBoer at the address shown above was returned,

marked "moved, left no address," on July 23, 1974 (see pages 3-3a), but a letter addressed to Mr. James G. DeBoer, Waste Management, Inc., 900 Jorie Boulevard, Oak Brook, Illinois, dated August 19, 1974 (see page 4), elicited a response (see pages 5-5c). A check with the Office of the Secretary of State of Illinois, Corporation Division, on or about January 8, 1975, revealed that the Chicago Ridge Land Fill Company is currently registered and in good standing.

DeBoer Brothers, Inc., which operated the site, was merged into Waste Management of Illinois, Inc., on October 31, 1972, according to the Corporations Division of the Office of the Secretary of State. Waste Management of Illinois, Inc. is a foreign corporation authorized to do business in Illinois. It is a subsidiary of Waste Management, Inc., another foreign corporation authorized to do business in Illinois. The Registered Agent for Waste Management of Illinois, Inc., is:

Peter H. Huizinga
20 N. Wacker Drive
Suite 1709
Chicago, Illinois 60606

The president of Waste Management of Illinois, Inc. is:

Thomas N. Tibstra
P. O. Box 563
Palos Heights, Illinois

The Registered Agent for Waste Management, Inc. is:

Peter Huizinga
20 N. Wacker Drive
Chicago, Illinois 60606

The president of Waste Management, Inc. is:

Harold Gershowitz
900 Jorie Boulevard
Oak Brook, Illinois

(Reference: Certified List of Domestic and Foreign Corporations, 1974). (See also the following documents obtained from the Secretary of State's Office:

Certificate of Incorporation of DeBoer Brothers, Inc. (pages 102-107).

Certificate of Incorporation of Waste Management of Illinois, Inc. (pages 108-112).

Annual Report for 1974 of Waste Management of Illinois, Inc. (pages 113-114).

Certificate of Incorporation of Waste Management, Inc. (pages 115-119).

Annual Report for 1974 of Waste Management, Inc. (pages 120-123).

According to Patrick Lynch, Manager of the Division of Land Pollution Control, in the fall of 1974, Dean Buntrock replaced Harold Gershowitz as President of Waste Management, Inc.

(Note: In a recent phone conversation with John Rein, Manager, Enforcement Section, DLPC, Peter Huizinga indicated his address was 900 Jorie Boulevard, Oak Brook, Illinois).

Incinerator, Inc., was responsible for openly dumping refuse on the site in August, 1974, as will be shown below. Incinerator, Inc. is an Illinois corporation whose registered agent is:

Harry Huizinga
[REDACTED]

The president is:

James J. DeBoer
[REDACTED]

(Reference: Certified List of Domestic and Foreign Corporations, 1974). (See also Certificate of Incorporation and Amendments, pages 124-136, and Annual Report for 1974, pages 137-138).

II. DESCRIPTION OF POLLUTION SOURCE

The Chicago Ridge Land Fill Company, Inc. owns and Waste Management of Illinois, Inc., has operated a general solid waste disposal site (approximately 42 acres) located within Section 13 of Township 37 North, Range 12 East of the Third P.M. in Cook County, Illinois (see the legal description, page 8, Appendix B).

III. AGENCY HISTORY

The Agency received a permit application for the site on February 25, 1971 (see letter, pages 6-6a, and application, pages 7-7c). The application was denied by the Agency on May 25, 1971 (see pages 11-11a). A series of correspondence ensued (see pages 12-18) and a new application was submitted on March 2, 1972 (see pages 4 et seq., Appendix B). This application was denied by the Agency, pending the submission of further information, on March 27, 1972 (see pages 19-19b). As of November 27, 1972, the site was still without a permit (see page 22). In December, 1972, the Agency was informed that the site would be closed within a month (see page 23). The site was still operating on January 12, 1973, (see memo, page 25 and inspection report, page 26), but was closed on April 10, 1973 (see inspection report, page 34). However, Agency inspections indicated that final cover was not applied and that occasional random dumping was occurring over the

ensuing months. The Agency sent eight (8) warning letters (see pages 27-33a) from April, 1973, through December, 1974, to Mr. James G. DeBoer of DeBoer Brothers, Inc. and Waste Management of Illinois, Inc. advising the responsible party of various violations. Agency inspections in July and August, 1974, indicated that the site was accepting demolition material. In August, 1974, the Agency received a complaint that the site was accepting incinerator ash (see page 76). An Agency inspection verified the complaint. Mr. James G. DeBoer of Waste Management of Illinois, Inc. was notified (see page 33) and instructed to remove the incinerator ash, as it had been deposited at the site without a permit (see page 81). As of October, 1974, the ash had not been removed (see inspection report, page 70). (Although all warning letters were sent to Mr. James G. DeBoer at his address with DeBoer Brothers, Inc. and later at his address with Waste Management of Illinois, the Agency believes that Chicago Ridge Land Fill Company has also been constructively served with notice and probably also actually served with notice since Mr. DeBoer is also the Registered Agent of that latter Company. Therefore, the Agency desires to have both Chicago Ridge Land Fill Company and Waste Management of Illinois, Inc joined as Respondents.

IV. VIOLATIONS

The allegations to be included in the Complaint are:

1. That Respondents, Chicago Ridge Land Fill Co. and Waste Management of Illinois, Inc., caused or allowed the open dumping of refuse, in violation of Section 21(b) of the Act. "Open dumping"

as used here is not a catchall term indicating violations of the requirements of daily cover, spreading and compacting, etc., alleged elsewhere in the Complaint, as discussed in EPA v. Clay Products, PCB 71-41. Rather the term is used here in the sense in which it was used in EPA v. Otto Dobbeke, PCB 72-130, and EPA v. L. R. Johnson and Son, PCB 73-84, i.e. to signify the failure to ensure that one's property is not abused by random or promiscuous dumping.

The following evidence substantiates the violation for the following dates:

a. April 10, 1973.

(1) Inspection report by Rene Van Someren dated April 10, 1973 (see page 34) indicating the occurrence of promiscuous dumping.

b. June 13, 1973.

(1) Inspection report by Rene Van Someren dated June 13, 1973 (see page 36) indicating that additional refuse had been deposited at the site.

c. July 6, 1973.

(1) Inspection report by Rene Van Someren dated July 6, 1973 (see page 37) indicating the occurrence of promiscuous dumping.

d. October 16, 1973.

(1) Inspection report by Rene Van Someren dated October 16, 1973 (see page 38) indicating promiscuous dumping as type of operation and observation of openly dumped refuse.

(2) Memo from Rene Van Someren dated October 16, 1973 (see page 39) indicating promiscuous dumping at the site.

e. January 10, 1974.

(1) Inspection report by Rene Van Someren and Robert Wengrow dated January 10, 1974 (see page 42) indicating random dumping as type of operation and observation of openly dumped refuse.

f. February 8, 1974.

(1) Inspection report by Rene Van Someren dated February 8, 1974 (see page 44) indicating random dumping as type of operation and observation of openly dumped refuse.

g. April 23, 1974.

(1) Inspection report by Robert Wengrow dated April 23, 1974 (see page 45) indicating random dump as type of operation and observation of openly dumped refuse.

(2) Sketched diagram of the site dated April 23, 1974 (see page 46) showing the location of randomly dumped refuse.

h. See also the warning letters citing the occurrence of promiscuous dumping (pages 27-30).

2. That Respondents, Chicago Ridge Land Fill Co., and Waste Management of Illinois, Inc., failed to apply final cover of not less than two (2) feet of suitable material following final placement of refuse, in violation of Rule 305(c) of the

Solid Waste Rules and Regulations. The Rules and Regulations for Refuse Disposal Sites and Facilities, in effect at the time the site was closed, required final cover within six months. The Solid Waste Rules and Regulations superseded those rules on July 27, 1973, and required final cover within 60 days. No problem is anticipated, however, as the final cover violations cited below commence more than six months after the closing of the site.

The following evidence substantiates the violation for the corresponding dates:

a. October 17, 1973.

(1) Inspection report by Rene Van Someren dated October 17, 1973 (see page 38) indicating that final cover had not been applied in required areas.

(2) Photograph taken by Rene Van Someren on October 17, 1973 (see page 40) showing exposed refuse.

b. January 10, 1974.

(1) Inspection report by Rene Van Someren and Robert Wengrow dated January 10, 1974 (see page 42) indicating inadequate final cover.

c. February 8, 1974.

(1) Inspection report by Rene Van Someren dated February 8, 1974 (see page 44) indicating inadequate final cover.

d. April 23, 1974.

(1) Inspection report by Robert Wengrow dated April 23, 1974 (see page 45) indicating inadequate final cover.

(2) Sketched Diagram of the site dated April 23, 1974 (see page 46) showing the location of exposed refuse.

e. June 24, 1974.

(1) Inspection report by Kenneth Bechely dated June 24, 1974 (see page 49) indicating that most of the site needed final cover.

(2) Memo from Kenneth Bechely to C. E. Clark dated June 24, 1975 (see pages 50 and 51) indicating that most of the site was in need of adequate cover.

f. July 16, 1974.

(1) Inspection report by Rene Van Someren dated July 16, 1974 (see page 52) indicating that final cover had not been applied to all areas.

g. July 24, 1974.

(1) Inspection report by Robert Wengrow dated July 24, 1974 (see page 55) indicating that the final cover was not of adequate depth.

h. August 19, 1974.

(1) Inspection report by Robert Wengrow dated August 19, 1974 (see page 58) indicating inadequate final cover.

i. August 22, 1974.

(1) Inspection report by Robert Wengrow and Kenneth Bechely dated August 22, 1974 (see page 62) indicating that the entire site needed final cover.

j. October 25, 1974.

(1) Inspection report by Robert Wengrow dated October 25, 1974 (see page 67) indicating inadequate final cover.

k. October 30, 1974.

(1) Inspection report by Robert Wengrow dated October 30, 1974 (see page 70) indicating inadequate final cover.

l. See also memo of a phone conversation by Rene Van Someren dated April 23, 1974 (page 75) concerning application of final cover to the site.

m. See also warning letters citing the need for final cover (pages 28, 29, 31, 32a, and 33a).

3. That Respondents, Chicago Ridge Land Fill Co. and Waste Management of Illinois, Inc., caused or allowed the use or operation of the site without a permit issued by the Agency, in violation of Section 21(e) of the Act and Rule 202(b)(1) of the Solid Waste Rules and Regulations. It is felt that use of the site on the dates below amounted to operation of site, as opposed to the promiscuous dumping charged in allegation 1, because of the dumping of numerous truckloads of refuse. The violations on these dates could

be charged alternatively under Section 21(b), as in allegation 1.

The following evidence substantiates the violation for the corresponding dates:

a. July 16, 1974.

(1) Inspection report by Rene Van Someren dated July 16, 1974 (see page 52) indicating that openly dumped wood, cardboard, and concrete blocks were observed.

(2) Two photographs taken by Rene Van Someren on July 16, 1974 (see page 54) showing dumped loads of refuse.

(3) Sketch diagram of the site dated July 16, 1974 (see page 53) showing location of the loads dumped and the photographs.

(4) Correspondence dated August 19, 1974 (see pages 32-32a).

b. July 24, 1974.

(1) Inspection report by Robert Wengrow dated July 24, 1974 (see page 55) indicating that openly dumped cardboard, metal limbs, roofing, plastic, and paper were observed and that there were piles of cinders on the site.

c. August 19, 1974.

(1) Memos of phone conversations on August 19, 1974 (see pages 76-78) concerning the dumping of incinerator ash on the site and the need to make an inspection.

(2) Inspection report by Robert Wengrow dated August 19, 1974 (see page 58) indicating the presence of wood, concrete, paper, cardboard, roofing material, and an estimated 125 loads of incinerator ash.

(3) Memo to C. E. Clark from Robert Wengrow dated August 19, 1974 (see page 57) indicating that incinerator ash was being deposited on the site and that two truck drivers and a caterpillar operator were interviewed.

(4) Three photographs taken by Robert Wengrow on August 19, 1974 (see pages 60-61) showing loads of incinerator ash and operation of a dump truck and a caterpillar.

(5) Sketch diagram of the site dated August 19, 1974 (see page 59) showing location of the refuse and the photographs.

(6) See also correspondence dated August 19, 1974 (see page 33).

d. August 22, 1974.

(1) Inspection report by Robert Wengrow and Kenneth Bechely dated August 22, 1974 (see page 62) indicating that a truck dumping broken concrete was observed and that openly dumped incinerator ash, wood, and broken asphalt and concrete were observed.

(2) Memo to C. E. Clark by Robert Wengrow dated August 22, 1974 (see page 63) noting the observation of a truck dumping concrete and the fact that chunks of concrete and road asphalt had

been hauled in since the inspection on August 19, 1974.

(3) Four photographs taken by Kenneth Bechely on August 22, 1974 (see pages 65-66) showing piles of refuse and a truck dumping broken concrete.

(4) Sketch diagram of site dated August 22, 1974 (see page 64) showing location of piles of refuse and of the photographs.

(5) Memo of telephone conversation between Kenneth Bechely and Rene Van Someren (see page 83) indicating that Robert Wengrow noted the presence of asphalt and concrete on the site which was not there previously.

Note: See the memos of phone conversations dated August 21, 1974 (see pages 79-81) regarding whether the incinerator ash at the site should be covered or removed, particularly the memo of a conversation with Bert Fowler (see page 81) in which he was instructed that the ash should be removed since it was deposited with no permit. See also the letter from Bert Fowler to Patrick Lynch dated October 7, 1974 (see pages 5-5a) stating that the ash had been removed from the site. See, however, the following:

(1) Inspection report by Robert Wengrow dated October 30, 1974 (see page 70) indicating that 10 test holes showed that incinerator ash was present on the site over an area of approximately 200 feet by 350 feet varying in depth from four to twenty-six inches.

(2) Memo from Robert Wengrow dated October 30, 1974 (see page 71) to the same effect, but indicating the difficulty in telling recently hauled-in ash from older ash.

(3) Sketched diagram dated October 30, 1974 (see page 72).

(4) Photograph taken by Robert Wengrow on October 30, 1974 (see page 73) showing the depth of incinerator ash.

4. That Respondent, Chicago Ridge Land Fill Co. and Waste Management of Illinois, Inc., caused or allowed operation of the site without performing each requirement of Part III of the Solid Waste Rules and Regulations, in violation of Rule 301 of said Solid Waste Rules and Regulations.

The following evidence substantiates the violations for the corresponding dates:

a. July 16, 1974.

(1) Inspection report by Rene Van Someren dated July 16, 1974 (see page 52) indicating inadequate performance of the following requirements of Part III: Rule 303(b), spreading and compacting; Rule 305(a), daily cover; and Rule 314(c), control of site access.

(2) Two photographs taken by Rene Van Someren on July 16, 1974 (see page 54) showing refuse not spread or covered.

(3) Letter dated August 19, 1974 (see pages 32-32a) informing Respondent of the violations.

b. July 24, 1974.

(1) Inspection report by Robert Wengrow dated July 24, 1974 (see page 55) indicating inadequate performance of the following requirements of Part III: Rule 305(a), daily cover; Rule 305(b), intermediate cover; and Rule 314(c), control of site access.

c. August 19, 1974.

(1) Inspection report by Robert Wengrow dated August 19, 1974 (see page 58) indicating inadequate performance of the following requirements of Part III: Rule 303(b), spreading and compacting; Rule 305(a), daily cover; Rule 305(b), intermediate cover; and Rule 314(c), control of site access.

(2) Three photographs taken by Robert Wengrow on August 19, 1974 (see pages 60-61) showing uncovered and unspread refuse in piles or being dumped.

d. August 22, 1974.

(1) Inspection report by Robert Wengrow and Kenneth Bechely dated August 22, 1974 (see page 62) indicating inadequate performance of the following requirements of Part III: Rule 303(b), spreading and compacting; Rule 314(c), control of site access; and Rule 314(f), control of dust.

(2) Four photographs by Kenneth Bechely taken on August 22, 1974 (see pages 65-66).

e. September 19, 1974.

(1) Memo from Rene Van Someren dated September 19, 1974 (see page 67) indicating inadequate performance of the following requirement of Part III: Rule 314(c), control of site access.

f. October 25, 1974.

(1) Inspection report by Robert Wengrow dated October 25, 1974 (see page 68) indicating inadequate performance of the following requirements of Part III: Rule 303(b), spreading and compacting; and Rule 314(c), control of site access.

g. October 30, 1974.

(1) Inspection report by Robert Wengrow dated October 30, 1974 (see page 70) indicating inadequate performance of the following requirement of Part III: Rule 303(b), spreading and compacting.

5. That Respondent, Incinerator, Inc., caused or allowed the open dumping of refuse in violation of Section 21(b) of the Act. "Open dumping" as used here is a catchall term indicating violations of the requirements of daily cover, spreading and compacting, etc., as discussed in EPA v. Clay Products, PCB 71-41.

The following evidence substantiates the violation for the following date:

a. August 19, 1974.

(1) Inspection report by Robert Wengrow dated August 19, 1974 (see page 58) indicating that incinerator ash has been openly dumped at the site

and that daily cover had not been applied to this ash. Note: The report specifically states that approximately 125 truckloads of the ash had been dumped by Incinerator, Inc.

(2) Three photographs taken by Robert Wengrow on August 19, 1974 (see pages 60-61) showing loads of incinerator ash dumped and being dumped at the site.

(3) Sketch diagram of the site dated August 19, 1974 (see page 59) showing location of the refuse (incinerator ash) and the photographs.

(4) See also letter dated August 19, 1974 (see page 33) from Patrick E. Lynch, Manager, Division of Land Pollution Control, to James DeBoer which letter indicates that a truck lettered with the name Incinerator, Inc. was identified dumping ash at the site.

(5) Inspection report by Robert Wengrow and Kenneth Bechely dated August 22, 1974 (see page 62) indicating that openly dumped incinerator ash was observed and that this material was not suitable as cover material.

(6) Sketch diagram of the site dated August 22, 1974 (see page 64) showing location of incinerator ash still present in piles on site.

(7) Four photographs taken by Kenneth Bechely on August 22, 1974 (see pages 65-66) showing the

incinerator ash still present in piles on site (not spread and compacted and not having received final cover).

(8) Sketch diagram of site dated August 22, 1974, (see page 64) showing location of the piles of ash and that of the photographs taken on that date.

Note: See the memos of phone conversations dated August 21, 1974 (see pages 79-81) regarding whether the incinerator ash at the site should be covered or removed, particularly the memo of a conversation with Bert Fowler (see page 81) in which he was instructed that the ash should be removed since it was deposited with no permit. See also the letter from Bert Fowler to Patrick Lynch dated October 7, 1974 (see pages 5-5a) stating that the ash had been removed from the site. See, however, the following:

(1) Inspection report by Robert Wengrow dated October 30, 1974 (see page 70) indicating that 10 test holes showed that incinerator ash was present on the site over an area of approximately 200 feet by 350 feet varying in depth from four to twenty-six inches.

(2) Memo from Robert Wengrow dated October 30, 1974 (see page 71) to the same effect, but indicating the difficulty in telling recently hauled-in ash from older ash. This memo also indicates that only one-third of the ash had been covered with varying depths of clay.

(3) Sketched diagram dated October 30, 1974 (see page 72) showing area of ash dumping, area of exposed ash still present on the site and location of picture taken on that date.

(4) Photograph taken by Robert Wengrow on October 30, 1974 (see page 73) showing the depth of exposed incinerator ash present on the site and not properly covered.

V. WITNESS LIST

The following Agency personnel should be called as witnesses:

Rene Van Someren, Region II Supervisor, Field Operations Section, Division of Land Pollution Control.

Kenneth Bechely, Region II, Field Operations Section, Division of Land Pollution Control.

Robert Wengrow, Region II, Field Operations Section, Division of Land Pollution Control.

The following officers and/or employees of Respondents should also be considered as possible witnesses:

James G. DeBoer, Waste Management of Illinois, Inc., and Incinerator, Inc.

Bert Fowler, Waste Management of Illinois, Inc.

The following people should also be considered as possible witnesses:

Rich Dykstra, Clearing Disposal, Inc., the ash hauler who ordered trucks to dump elsewhere on August 19, 1974 (see page 57).

Alfred Boehme, Pollution Control Officer, Metropolitan Sanitary District of Greater Chicago, who ordered trucks away from site on August 19, 1974 (see page 57).

[REDACTED] who observed and informed the Agency of the dumping of incinerator ash at the site on August 19, 1974 (see page 76).

VI. ECONOMIC INFORMATION

Waste Management of Illinois, Inc. owns and/or operates a number of refuse disposal sites (in addition to refusal collection operations) in the Chicago area. During the past year, DLPC personnel have collected the following information with regard to Waste Management of Illinois sites by simply asking the operators for this information:

Site	Estimated Charges/Cubic Yd.	Estimated Volume Cubic Yds/Year
Calumet City/C.I.D.	\$.85-1.00	2,839,821
Lansing/Kingery Develop- ment	.50	624,000
Northfield/Lake Land Fill	.85-1.00	3,744,000
Antioch/H.O.D.	.70	182,000
Joliet/E.S.L.	.65- .90	1,700,400
Lisle Twp/Green Valley	1.00	800,800
S. Elgin/Tri-County	1.00	624,000
	<hr/>	<hr/>
	\$.85 (approximate average charge)	10,515,021 (total estimated volume)

Waste Management of Illinois' annual gross revenues from its Chicago area sites (obtained by multiplying the average charge by the total estimated volume shown above) are estimated to be \$8,937,767.85. The industry-wide average for gross profit is about 20% of gross income. Waste Management of Illinois, Inc, therefore, had an estimated annual gross profit of \$1,787,553.57. (The above-quoted figure of 20% gross profit is admittedly an Agency estimate, which if challenged would require additional support. However, the 20% figure is in the ballpark. The solid waste industry magazine "Waste Age" reported recently the corporate profits of the industry leaders, including Waste Management. We will obtain a copy of this "Waste Age" article and forward it to you. We believe that certain financial information can be obtained through discovery. If it can be found what the Company's effective tax rate is for each year, then the 20% figure can probably be confirmed.

Waste Management of Illinois, Inc. listed its total stated capital and paid-in-surplus as \$2,010,773 in its Annual Report for 1974 (see page 113). However, the Company elected to pay a franchise tax based on this total rather than provide further economic information in its Annual Report (see page 114). We will attempt to secure further economic information for you.

Chicago Ridge Land Fill Company listed a stated capital of \$25,300 in its Annual Report for 1974 (see page 100). No other financial information on the Company is presently available.

Incinerator, Inc. listed a stated capital of \$842,520.00 in its Annual Report for 1974 (see page 137) and a total stated capital and paid-in-surplus of the same amount. However, the company elected to pay a franchise tax based on this total rather than provide further economic information in its Annual Report (see page 138).

VII. TECHNOLOGY AVAILABLE

Technology is not really a problem with this case; essentially cover is the main solution. Agency surveillance personnel can testify that some cover material is presently stockpiled on the site. However, a great deal more will be needed to properly cover the site. The Agency has reason to believe that Mr. DeBoer is presently obtaining cover material from Metropolitan Sanitary District deep tunnel construction projects and from other sources, and that he should have no problem obtaining sufficient quantities of cover.

VIII. WITNESS QUALIFICATIONS

See Witness Qualification forms for Agency personnel (pages 86-91).

IX. PENALTY

1. For Respondents Chicago Ridge Landfill Company and Waste Management of Illinois, Inc:

(a) A penalty in the amount of \$5,000 should be sought for the violations charged. (Although numerous dates of violations can be proven, the Agency's primary goal is the

speedy closure and proper covering of this site. The Agency has not alleged all the violations which could be proved. In fact, the Agency has excluded certain water pollution-related violations which 1) would tend to complicate the case and delay a resolution of the matter, and 2) have apparently been corrected. Therefore, the Agency is seeking only a nominal penalty. Furthermore, if Respondents agree to complete all phases of the compliance plan described below by the date specified, the Agency might be willing to accept a lower penalty.)

(b) A Board Order should be obtained requiring these Respondents to:

(i) Cease and desist from all violations of the Act and the Regulations;

(ii) Comply in all respects with the following closure plan and timetable:

Phase 1:

(a) Construct a berm of suitable earthen material (excluding sand and rock) along the southern edge of the site (between the site and Stony Creek), which berm should be eight (8) feet wide at the bottom, keyed into virgin soil, and terminated at the top of the final cover, with a minimum width of two (2) feet at the top;

(b) Fill in all low areas on the site;

(c) Complete intermediate cover (12 inches) over the entire site; and

(d) Complete all the above parts of Phase I by May 30, 1975.

Phase 2:

Complete final cover (two feet) of suitable material (excluding sand and rock) by no later than September 30, 1975. Cover operations here are intended to include complete grading and seeding.

(iii) Post a bond with the Agency and in a form suitable to the Agency in the amount of \$150,000 to guarantee performance of the above-described closure plan.